

STATEMENT OF CONSIDERATION RELATING TO
907 KAR 10:025

Department for Medicaid Services
Not Amended After Comments

(1) A public hearing regarding 907 KAR 10:025 was not requested and; therefore, not held.

(2) The following individual submitted written comments regarding 907 KAR 10:025:

<u>Name and Title</u>	<u>Organization/Agency/Other Entity</u>
Nancy C. Galvagni, Senior Vice President	Kentucky Hospital Association

(3) The following individuals from the promulgating agency responded to comments received regarding 907 KAR 10:025:

<u>Name and Title</u>	<u>Organization/Agency/Other Entity</u>
Neville Wise, Deputy Commissioner	Department for Medicaid Services
Stuart Owen, Regulation Coordinator	Department for Medicaid Services

SUMMARY OF COMMENTS AND AGENCY'S RESPONSES

(1) Subject: Payment Methodology/Payment Rate

(a) Comment: Nancy C. Galvagni, Senior Vice President, Kentucky Hospital Association, stated the following:

"The new regulation sets out a payment methodology for all outpatient behavioral health services provided by a hospital to be paid at 95% of allowable cost, using an interim rate which is later cost settled. While we recognize that this method is used for reimbursement of general acute hospital services, it creates a problem for psychiatric hospitals. Specifically, implementation of this method which will require payment below cost will result in disparate treatment in reimbursement to hospitals as compared to other providers for identical outpatient behavioral health services."

Ms. Galvagni also stated the following:

"With the exception of partial hospitalization, all other covered outpatient behavioral health services can be offered both by hospitals as well as other types of providers,

such as behavioral health service organizations, community mental health centers, and now PRTFs. Yet, there are different rates proposed to be made to hospitals which will result in hospitals receiving lower payment than the amounts paid in other settings. For example, behavioral health service organizations are to be paid a per diem for intensive outpatient services, which we understand is to be established at \$125 per day. This is the rate which was also paid to hospitals for that service when it was covered under EPSDT. However, under this proposed rule, hospitals would no longer be paid that rate (a rate they had already been receiving for that service, which is now a Medicaid covered service), because under the proposed rule, a hospital could only be paid 95% of cost. Thus, if the rate hospitals have been receiving for years - \$125 per day – for intensive outpatient services was more than 95% of cost, the hospital would be required to absorb a rate cut.

Considering this impact, it is unfair to set a reimbursement method which will lower payment to hospitals for providing outpatient services, particularly when hospitals have established EPSDT rates for services which are now Medicaid covered services.

KHA's psychiatric hospitals feel that hospitals should not be paid less than the amounts being received by other providers for the same services, and not less than they had been receiving under EPSDT for services which are now covered. For these reasons, KHA opposes the proposed new regulation and requests that it be changed to incorporate the rates set out for each covered outpatient behavioral health service being paid to behavioral health service organizations and/or the hospital's EPSDT rate for the same services which are now covered services."

(b) Response: DMS is surprised to hear that the reimbursement in 907 KAR 10:025 is lower than in other settings and would appreciate documentation of that as it contradicts DMS's understanding.

DMS's reimbursement established in this administrative regulation for outpatient psychiatric hospital services is the same – ninety-five (95) percent of costs – as for outpatient hospitals and the intent was to ensure consistency among settings.

DMS's reimbursement for intensive outpatient program services in other settings – such as behavioral health services organizations or provider groups - is actually a per diem of \$58.26 rather than of \$125. Below is a link to the relevant fee schedule:

<http://www.chfs.ky.gov/NR/rdonlyres/8167DAC7-9912-4505-ADC0-94759C9AC6EB/0/BHNonFacilityRevisedFeeSchedules020915.pdf>.

SUMMARY OF STATEMENT OF CONSIDERATION AND ACTION TAKEN BY PROMULGATING ADMINISTRATIVE BODY

The Department for Medicaid Services (DMS) has considered the comments received regarding 907 KAR 10:025 and is not amending the administrative regulation.